

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:	Jeffery Brunet, et al.	Examiner:	Marisol Figueroa
Serial No.:	10/822,092	Group Art Unit:	2617
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Title:	Mobile Care Framework		

REPLY APPEAL BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer mailed June 8, 2009, Appellants file this Reply Brief in accordance with 37 C.F.R. § 41.41.

AUTHORIZATION TO DEBIT ACCOUNT

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's deposit account no. 08-2025.

Independent claim 1 recites allowing hardware vendors and the software application developers to query the database and obtain statistics on a number of mobile devices with a particular installed software. In the Examiner Answer, the Examiner argues that Davenport implies querying the database:

Furthermore, the abstract suggests that the software manufacturer obtains this particular information from a database system, for example, the abstract teaches that a server environment (i.e., database system) summarize the statistical information about a software so that the software manufacturer can better know how its software product is used across a user population. Therefore, the database provides the statistics information to the software manufacturer and a person of ordinary skill in the art would recognize that a conventional way to obtain information from a database is via a query, thus the step of querying the database to obtain the statistical information is implicit in Davenport.

For various reasons, Appellants respectfully disagree with the conclusion of the Examiner.

Davenport expressly teaches that the data points collected from the instrumented application are saved in a session file and then transmitted to “a server environment for further processing to summarize the statistical information received so that the software manufacturer can better know how its software product are actually used across a user population potentially numbering in the millions” (see Davenport abstract). Thus, Davenport expressly teaches transmitting the session file to a server environment for processing to summarize the information. **Davenport is describing a processing server, not a database. The server environment in Davenport does not suggest a database.**

During prosecution, the terms in a claim should be given their broadest reasonable interpretation in light of the specification. Appellants’ specification and drawings use the term “database” in its plain meaning. To one skilled in the art, the term “database” has a specific meaning, while the term “server” has another, different specific meaning. These two terms are very different. **A server does not suggest a database.** In fact, Davenport

suggests an embodiment that is away from usage of a database as recited in claim 1. In Davenport, the server environment is used for “processing to summarize the statistical information.” This teaching suggests a processing server, not a database. Furthermore, in the drawings, Davenport distinguishes between databases (shown with a traditional cylindrical shaped symbol) and servers. The drawings in Davenport symbolically depict the server environment as a server, not a database.

Traditionally, databases provide storage of records and do not function as a server to process and summarize statistical information as taught in Davenport. In fact, Wikipedia (an online dictionary found at www.wikipedia.com) defines a database as “an integrated collection of logically related records or files which consolidates records previously stored in separate files into a common pool of data record that provides data for many applications.” This definition does not imply that the database processes data to summarize statistical information as a server.

Even assuming arguendo that Davenport suggests or implies a database (which it does not), Davenport still fails to teach or suggest the claimed recitations. Claim 1 recites that hardware vendors and software application developers “query” the database. Appellants’ specification teaches how a database is queried using, for example, SQL language: “Although some pre-built queries will preferably be shown, each user will have access to a dynamic SQL query build tool, which allows for custom queries using the available data fields” (see lines 19-21 on page 20). Databases are queried to obtain specific information from a vast amount of stored data.

Davenport does not teach, suggest, or even imply that the server environment is queried like a database. Instead, Davenport teaches that the information is sent to the manufacturers; the manufacturers are not querying a database. **This difference is very significant.** Claim 1 recites that the developers query the database. Appellants’ Appeal Brief discusses the advantages of allowing the developers to access and query the database to obtain specifically requested information, provide patches, fix bugs, etc. Davenport does not teach the ability of the manufacturer to query the server environment since the information is transmitted to the manufacturer. Queries of the server environment are not performed.

Hindsight Construction

In the Examiner Answer, the Examiner argues that hindsight is proper “so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the appellant’s disclosure” (see Examiner Answer at p. 28). The Examiner is using knowledge only gleaned from Appellants’ disclosure. For example, the art of record does not teach or suggest allowing hardware vendors and software application developers to query a database as recited in claim 1.

In the Appeal Brief, Appellants separately argued various dependent and independent claims. Appellants respectfully request the BPAI to consider these separate arguments.

In view of the above, Appellants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Respectfully submitted,

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